



THE BOARD OF PATENT APPEALS AND INTERFERENCES

|             |                               |   |                               |
|-------------|-------------------------------|---|-------------------------------|
| Applicant:  | James K. Beriker              | ) |                               |
| Assignee:   | Value Click, Inc              | ) |                               |
| Serial No.: | 10/029,483                    | ) | Group Art Unit: 2142          |
| Filed:      | December 20, 2001             | ) | Examiner: Willett, Stephan H. |
|             |                               | ) |                               |
|             |                               | ) |                               |
| For:        | A System, Method and          | ) |                               |
|             | Apparatus for Dynamic Traffic | ) |                               |
|             | Management on a Network       | ) | Docket No. 3553               |

**DECLARATION**

Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

Honorable Commissioner:

I hereby declare that I am attorney of record in the above-named case, and that this case was abandoned by the examiner even though the applicant's responded to his request for a compliant appeal brief in good faith. The applicants hereby declare that any abandonment of the case was unintentional and petition the Director to revive the case.

The applicants attempted to define the corresponding structure of the claim term "means for establishing an account". While the applicant's and examiner's opinion may differ on whether that was accomplished, this is a question the board should decide, not

the examiner.

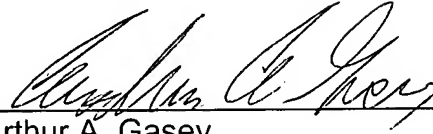
The applicant's original statement of the structure was: **"Defined structure for: "means for establishing an account" Structure defined in [0026] including computer running "traffic management system" (Fig. 1, (28) including structure in [0024])."** A computer is absolutely necessary and implicit to run a traffic management system with a web page. The applicant's feel that their answer was responsive to the examiner's request. However, to clarify, the applicant's have modified their response to: **Defined structure for: "means for establishing an account" Structure defined in p. 6, lines 24-25 that is the computer running the "traffic management system"** NOTE: Page 6, lines 24-26 clearly state: **"... to establish an account with the dynamic traffic management system 28, the referral provider accesses the traffic management system ..."** . It is implicit that the traffic management system runs on a computer with a web page. **This computer is the required structure.**

In short, because the applicant's did respond in an affirmative way to the examiner's request, the applicant's believe that any action on their part that resulted in the examiner abandoning the case was unintentional.

In an additional point, the examiner stated that the only part of the original specification supporting the term "search referral module" was the original claims. While the applicants do not agree with this, they have modified their brief to refer to the original claims in an effort to further the prosecution and appeal of this case.

The applicant's therefore declare that the delay of the entire time between the time they were notified of the examiner's abandoning the case (received 2-10-2008) to the present response was unintentional since they are responding as fast as possible. The applicant's petition the Director to revive the case and allow the Board to decide the important questions of the appeal.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Arthur A. Gasey", is written over a horizontal line.

Arthur A. Gasey  
Reg. No. 35,150  
Attorney for Applicants

Dated: February 26, 2007

NIRO, SCAVONE, HALLER & NIRO  
181 West Madison Street, Suite 4600  
Chicago, Illinois 60602  
(312) 236-0733  
(312) 236-3137 (facsimile)